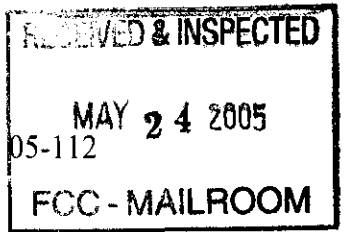


BEFORE THE  
**FEDERAL COMMUNICATIONS COMMISSION**  
WASHINGTON, D.C. 20554



In re Amendment of Section 73.202(b) )  
of the Commission's Rules, Table of Allotments, )  
FM Broadcast Stations )  
(FREDERICKSBURG, TEXAS) )

MM Docket No. 05-112  
RM-11185

To: The Office of the Secretary,  
for the Attention of the Assistant Chief, Audio Division, Media Bureau

**REPLY COMMENTS** **DOCKET FILE COPY ORIGINAL**

Munbilla Broadcasting Properties, Ltd. (*MPBL*), by its communications counsel, hereby  
files Reply Comments in this proceeding.

**I. BACKGROUND**

**THE PETITION AND THE NPRM**

1. On November 16, 2004, Katherine Pyeatt filed a Petition for Rule Making asking the Commission to allot Channel 256C3 to Fredericksburg, Texas as a, "first competing FM service." The Petition noted that the proposal was short-spaced to a rejected proposal to allot Channel 256A to Harper, Texas. The Petition also noted that the dismissal was effective, even though the rejection was not final, because an Application for Review was pending.<sup>1</sup> Ms. Pyeatt further noted a conflict between her proposal and a Petition for Rule Making to allot Channel 256AA to Ingram, Texas that the Commission's staff had also rejected. Ms. Pyeatt again, noted

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<sup>1</sup> Ms. Pyeatt provided a copy of the FCC staff letter rejecting the Harper proposal. The basis for the rejection was that Channel 256A at Harper was short-spaced to a Counterproposal that had been filed earlier in MM Docket No. 00-148, and that the Harper Petition had been filed after the deadline for Counterproposals in that docket.

Approved by: 014

that, although the dismissal of the Ingram Petition was not final, it was effective. Ms. Pyeatt also noted that her proposal conflicted with the legacy facilities of station KAYG, Channel 256A, Camp Wood, Texas, but noted that the station's license had, in MM Docket No. 99-214, been modified to specify Channel 251C3.

2. Ms. Pyeatt's Petition prompted the Media Bureau to issue the Notice of Proposed Rule Making in the instant proceeding, 20 FCC Rcd 6009, 70 Fed. Reg. 17044 (2005) (the NPRM). The NPRM proposed to allot Channel 256C3 to Fredericksburg, but cautioned interested parties that, pursuant to Auburn, Alabama, et al., 18 FCC Rcd 10333 (MB 2003), the proposed Fredericksburg allotment could only be granted subject to the outcome of MM Docket No. 00-148, due to the conflict with the dismissed Ingram proposal (which dismissal was not yet final). The NPRM also cautioned that the outcome of the Harper proceeding could also affect the outcome of the Fredericksburg proceeding. With those caveats, the NPRM solicited Counterproposals, to be filed by May 9, 2005.

#### **B. CC/R's COUNTERPROPOSAL**

3. On May 9, 2005, a group of entities —Rawhide Radio, LLC, Clear Channel Broadcasting Licenses, Inc., CCB Texas Licenses, L.P., and Capstar TX Limited Partnership (collectively, *CC/R*) — filed a multielement Counterproposal. In the Summary section of its Counterproposal, *CC/R* said that:

“This counterproposal is the same as [*CC/R*'s] pending proposal in MM Docket No. 00-148, [whose rejection as fatally flawed] is now on Application for Review before the

Commission.<sup>[2]</sup> Should that [Counter]proposal be dismissed or denied on procedural grounds, [CC/R] wish[es] to have it considered in this proceeding. This [C]ounterproposal is proper in the context of this proceeding. The Commission itself, in the [NPRM], noted the that petitioner's proposed allotment of Channel 256C3 at Fredericksburg is mutually exclusive with [CC/R's] pending proposal because of its substitution of Channel 256A at Ingram, Texas.

4. At Paragraph 51 of CC/R's Counterproposal, in discussing one element of its Counterproposal (the requested substitution of Channel 297A for Channel 242A at Llano, Texas, occupied by station KQBT, FCC Facility ID No. 87996), CC/R stated the following:

51. The Burnet application, File No. BPH-20030902ADU, does not protect [CC/R's Counter] proposal, and thus is contingent upon action in this proceeding. The Commission has not yet granted the application, and is holding the application in its pending queue. The application could be combined and considered as a counterproposal in this proceeding.

CC/R included with its Counterproposal an Engineering Statement dated June 21, 2004, which purported to show that the Counterproposal satisfied both the various spacing requirements and the city-grade-service requirements applicable to the individual elements of its Counterproposal. Relevant pages of the Counterproposal and the Engineering Statement that accompanied it form Exhibit A to these Reply Comments.

## **II. ARGUMENT: CC/R'S COUNTERPROPOSAL MUST BE REJECTED**

5. As MBPL will not demonstrate, CC/R's Counterproposal is fatally flawed, and must be summarily rejected as unacceptable for rule making.

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<sup>2</sup>CC/R's Counterproposal in MM Docket No. 00-148, to which CC/R referred, is the same Counterproposal to which the FCC staff referred in its letter rejecting the Harper, Texas proposal (a copy of which staff letter Ms. Pyeatt had provided as Attachment B to her Fredericksburg Petition for Rule Making). See n.1, supra.

**A. THE COUNTERPROPOSAL FAILS TO PROTECT STATION KHLB**

6. MBPL is the licensee of radio station KHLB, Channel 295A, Burnet, Texas, FCC Facility ID No. 34948. On September 2, 2003, MBPL applied for authority to relocate the main facility of station KHLB. See FCC Form 301, FCC File No. BPH-20030902ADU. The application was a contingent one in that MBPL was, at the time of the application's filing, the proposed assignee of the station. As § 73.3518 of the Rules required, MBPL provided a statement of consent from the then-licensee. MBPL subsequently acquired the Station.

7. Exhibit B-16 to MBPL's application, a part of the Engineering Statement of Hatfield & Dawson Consulting Engineers, included the following text:

The attached spacing study shows that the proposed operation meets the co-channel and adjacent channel spacing requirements for Class A stations as prescribed in §73.207 of the Commission's Rules, with two exceptions[, one of which is not relevant to these Reply Comments]:

\* \* \* \*

**Proposed Llano Channel 297A**

The proposed operation of KHLB-FM is 3 km short-spaced to the proposed substitution of Channel 297A for Channel 242A at Llano, Texas. The Llano substitution is part of a [C]ounterproposal (RM-10198) that the Commission dismissed by the Report and Order in MM Docket No. 00-148.<sup>3</sup> That dismissal became effective on the release date (May 8, 2003), and is the subject of a Petition for Partial Reconsideration and Request for Expedited Action filed on June 16, 2003.

As is more-comprehensively addressed in the legal section of this application, the instant application is filed pursuant to the policy set forth in Paragraphs 22-24 of *Auburn, et al, Alabama*, 18 FCC Rcd 1033 (2003), which states that FM proposals are not required to protect proposed allotments which have been dismissed, notwithstanding that the

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<sup>3</sup>Counterproposal RM-10198 is the CC/R Counterproposal in MM Docket No. 00-148 that resulted in the dismissal of the Harper, Texas Petition for Rule Making, previously discussed in these Reply Comments. See, e.g., n. 1, supra.

dismissal is the subject of a pending administrative appeal.

Therefore, for the purposes of this application it is presumed that the Llano Channel 297A has been dismissed.

8. The Commission granted the application on June 29, 2004, and the Commission announced the grant on July 1, 2004. See Broadcast Actions, Report No. 457688. A copy of the resulting Construction Permit forms Exhibit B to these Reply Comments. Special Operating Condition No. 7 reads as follows:

The grant of this permit is conditioned on the final outcome of MM Docket 00-148. The final outcome of that proceeding may require KHLB to change frequency, class, or site location. Accordingly, any construction undertaken pursuant to this permit is at the permittee's sole risk. See Meridian Communications, 2 FCC Rcd 5904 (Rev. Bd. 1987).

9. MBPL accepted the Construction Permit with that condition. MBPL was (and remains) willing to bear the risk that the ultimate outcome of MM Docket No. 00-148 may require the dismantlement of the facility. Accordingly, MBPL constructed the authorized facility, and filed an application for a license to cover the Construction Permit. See FCC Form 302-FM, File No. BLH-20050307ABE. By Public Notice of March 10, 2005, the Commission announced that it had accepted the license application for filing. See Broadcast Applications, Report No. 25938.

10. Because the authorized facility would employ a directional antenna, full-power operations required a grant of Program Test Authority. In its license application, MBPL requested a grant of such authority. By letter of April 18, 2005, the FCC staff granted Program Test Authority for the facility. The facility is currently operating pursuant to that grant.

11. As the Engineering Statement that CC/R supplied with its Counterproposal demonstrates, the proposed substitute allotment at Llano, a necessary component of the CC/R Counterproposal, short-spaces the BPH-20030902ADU site. However, the Counterproposal and its accompanying Engineering Statement incorrectly describe BPH-20030902ADU as a pending application. In fact, BPH-20030902ADU has been a granted Construction Permit for almost 11 full months.

12. Putting aside the issue of whether BPH-20030902ADU would not be entitled to full cut-off protection were it still only a pending application, BPH-20030902ADU<sup>4</sup> — as a granted Construction Permit — is obviously entitled to *full protection from all proposals other than the Counterproposal in MM Docket 00-148*. That includes CC/R's Counterproposal in this — the Fredericksburg — proceeding, MDB Docket No. 05-112.

13. Because the Llano-substitution element of CC/R's Counterproposal is short-spaced to MBPL's construction permit for station KHLB, for the Llano-substitution element of CC/R's Counterproposal to be fully spaced, CC/R would have had to provide a statement from MBPL either surrendering Construction Permit BPH-20030902ADU for cancellation, or voicing MBPL's consent to yet another KHLB site change. CC/R did not provide any such statement. In fact, CC/R did not even attempt to obtain such a statement from MBPL.

14. The failure of CC/R's Counterproposal to protect MBPL's Construction Permit for station KHLB, or alternatively to proffer a statement from MBPL of the type described above is

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<sup>4</sup>MBPL believes that BPH-20030902ADU, even if it were still just a pending application, would be entitled to cut-off protection because it was both filed and accepted for filing long before the deadline for the filing of Counterproposals in this proceeding. See, Conflicts Between Applications and Petitions for Rule Making to Amend the FM Table of Allotments, 7 FCC Rcd 4917, 4919 (1992), recons. granted in part, 8 FCC Rcd 4743 (1993).

a fatal defect, because it is a firmly established Commission policy not to force an existing station to change its transmitter site or its community of license.

“[C]lear consent to such changes had to be provided at the deadline for filing counterproposals or [the] counterproposal would not be technically correct or substantially complete. See Llano and Marble Falls, Texas, 12 FCC Rcd 6809, 6810 note 3 (1997) and Claremore, Oklahoma et al., 3 FCC Rcd 4037 (1988). Thus, failure to demonstrate such consent by [Station KHLB] renders [the] counterproposal unacceptable for consideration.”

Parker, Arizona, 17 FCC Rcd 9578 (2002).

15. “It is well established that counterproposals must be technically correct and substantially complete when filed and that counterproposals will be considered only if they are filed by the deadline date for comments. See Section 1.420 (d) of the Commission’s Rules, Broken Arrow and Bixby, Oklahoma, 3 FCC Rcd 6507, 6511 (1988) and Springdale Arkansas et al., 4 FCC Rcd 674 (1989), recon., 5 FCC Rcd 1241 (1990).” Id. Because CC/R’s Counterproposal was neither technically correct nor substantially complete when filed on the deadline for Comments in this proceeding, the staff must summarily reject CC/R’s Counterproposal on delegated authority.

#### **B. THE COUNTERPROPOSAL IS DUPLICATIVE.**

16. As noted in Paragraph 6, above, CC/R itself described its Counterproposal in this proceeding as, “... the same as [CC/R’s] pending proposal in MM Docket No. 00-148, [whose rejection as fatally flawed] is now on Application for Review before the Commission.” CC/R pointedly states that it is *not* abandoning its Application for Review. See CC/R Counterproposal at Paragraph 3. CC/R is trying to have it both ways. On the one hand, CC/R seeks to keep protection for its original proposal, e.g., opposing Charles Crawford’s efforts to

gain acceptance for various of his proposals which have been rejected due to untimely filing with respect to the Counterproposal in MM Docket No. 00-148.<sup>5</sup> On the other hand, CC/R seeks to file a Counterproposal to the Fredericksburg Petition in this proceeding, which proceeding's outcome is expressly conditioned on the ultimate fate of CC/R's Counterproposal in MM Docket No. 00-148.

17. Such blatant boot-strapping and hedging is an unwarranted and impermissible imposition on the Commission's scarce processing resources. It is precisely to *prevent* such impositions that the Commission has adopted a policy (subject to the limited exception) set forth in Auburn, Alabama et al., *supra*, of not accepting Petitions and Counterproposals whose outcomes are contingent either upon the outcome of an application for construction permit or upon the outcome of another rule-making proceeding. *See, e.g., Winslow et al., Arizona*, 16 FCC Rcd 9551 (2001); Cut and Shoot, Texas, 11 FCC Rcd 16383 (1996); Oxford et al., Mississippi, 3 FCC Rcd 615 (1988), *recons. den.*, 3 FCC Rcd 6626 (1988). Due to the same concerns, in application contexts, the Commission has expressly codified a relevant prohibition on such multiple filings. *See* 47 C.F.R. § 73.3520, the multiple-application rule, which states in pertinent part as follows:

(b) Where there is one application for new or additional facilities pending, no other application for new or additional facilities for a station of the same class to serve the same community may be filed by the same applicant, or successor or assignee, or on behalf of, or for the benefit of the original parties in interest. Multiple applications may not be filed simultaneously.

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<sup>5</sup>*See, e.g., CC/R Reply to Oppositions to Partial Petition for Reconsideration in MM Docket No. 00-148, dated August 8, 2003; First Broadcasting Company, L.P. et al. Comments in MM Docket 01-132 (Junction, Texas), dated August 13, 2001.*



18. For the very same fundamental concern, the Commission has adopted similar rules concerning contingent and inconsistent applications (47 C.F.R. §§ 73.3518, 73.3519),<sup>6</sup> and in FM-Allotment rule making proceedings, has banned the filing of alternative proposals.<sup>7</sup>

19. CC/R has hitched its fate to the outcome in MM Docket No. 00-148 by continuing to prosecute its administrative appeal of the dismissal of its Counterproposal in that proceeding. Having so elected, CC/R must ride that nag until it either crosses the finish line, or is mercifully put down by the Commission via denial of review. CC's Counterproposal in this proceeding — the Fredericksburg docket — cannot be allowed to be the glib means by which CC/R steppleschases over the gigantic hurdle created by CC/R's continued prosecution of its rejected Counterproposal in MM Docket 00-148. The threats to the Commission's administrative efficiency and scarce processing resources are simply far too great. Other disappointed Counterproponents would surely take note, and employ the same stratagem in the future.

#### IV. CONCLUSION

20. For both of the above reasons, the Commission's staff should promptly, and on delegated authority, issue a Report and Order in this proceeding:

- rejecting CC/R's fatally flawed Counterproposal in this proceeding;

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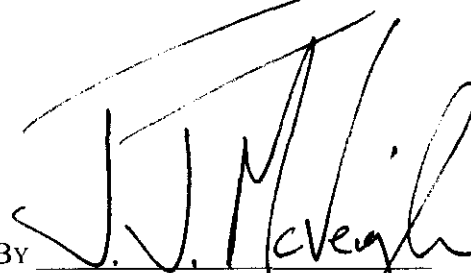
<sup>6</sup>See, e.g., Atlantic Radio Communications, Inc., 7 FCC Rcd 5105 (1992); Big Wyoming Broadcasting Corp., 2 FCC Rcd 3493 (1987); Valley Broadcasting Co., 58 Rad. Reg. (P & F) 2d 945 (1985); Comark Television, Inc., 51 Rad. Reg. (P & F) 2d 738 (1982)

<sup>7</sup> See, Winslow et al., Arizona, supra, at Paragraph 9 ('This procedural policy is necessary as such requests have excessively taxed our administrative resources and unreasonably cluttered the Commission's data base system, and in some instances, precluded the acceptance of otherwise viable requests for new or a modification of existing FM facilities.')

- providing to MBPL's Construction Permit, File No. BPH-20030902ADU, the full protection to which the Construction Permit is entitled;
- taking such action on Ms. Pyeatt's Petition as the Commission's staff deems appropriate; and
- terminating this MB Docket 05-112.

Respectfully submitted,

**MUNBILLA BROADCASTING PROPERTIES, LTD.**

BY   
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DATE: MAY 24, 2005

## EXHIBIT A

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

RECEIVED

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Federal Communications Commission  
Office of Secretary

In the Matter of )  
 )  
Amendment of Section 73.202(b) )  
Table of Allotments ) MB Docket No. 05-112  
FM Broadcast Stations ) RM - 11185  
(Fredericksburg, Texas) )

To: Office of the Secretary  
Attn: Assistant Chief, Audio Division  
Media Bureau

**COUNTERPROPOSAL**

Respectfully submitted,

RAWHIDE RADIO, LLC

CLEAR CHANNEL BROADCASTING  
LICENSES, INC.  
CCB TEXAS LICENSES, L.P.  
CAPSTAR TX LIMITED PARTNERSHIP

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Its Counsel

Their Counsel

May 9, 2005

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## SUMMARY

Capstar TX Limited Partnership, licensee of Station KWTX, Waco, Texas; CCB Texas Licenses, L.P., licensee of Stations KAJA, San Antonio, Texas and KHFI-FM, Georgetown, Texas; Clear Channel Broadcasting Licenses, Inc., licensee of Station KLFX, Nolanville, Texas; and Rawhide Radio, L.L.C., licensee of Station KLTO-FM, McQueeney, Texas (together, "Joint Parties"), submit a counterproposal in this proceeding. This counterproposal is the same as the Joint Parties' pending proposal in MM Docket No. 00-148, which is now on Application for Review before the Commission. Should that proposal be dismissed or denied on procedural grounds, the Joint Parties wish to have it considered in this proceeding.

This counterproposal is proper in the context of this proceeding. The Commission itself, in the *Notice of Proposed Rule Making*, noted the that petitioner's proposed allotment of Channel 256C3 at Fredericksburg is mutually exclusive with the Joint Parties' pending proposal because of its substitution of Channel 256A at Ingram, Texas.

Grant of this counteproposal offers a number of public interest benefits. It would provide first local services to three communities (four, if the Commission desires to make an allotment to Flatonia as set forth herein). It would also provide a significant gain in population able to receive new radio service. By contrast, the petition in this proceeding seeks to allot the second FM and third local service to Fredericksburg. Accordingly, this counterproposal is favored under the Commission's priorities.

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of	)	
	)	
Amendment of Section 73.202(b)	)	
Table of Allotments	)	MB Docket No. 05-112
FM Broadcast Stations	)	RM - 11185
(Fredericksburg, Texas)	)	

To: Office of the Secretary  
Attn: Assistant Chief, Audio Division  
Media Bureau

**COUNTERPROPOSAL**

1. Capstar TX Limited Partnership ("Capstar"), licensee of Station KWTX, Waco, Texas; CCB Texas Licenses, L.P. ("CCB Texas"), licensee of Stations KAJA, San Antonio, Texas and KHFI-FM, Georgetown, Texas; Clear Channel Broadcasting Licenses, Inc., licensee of Station KLFX, Nolanville, Texas; and Rawhide Radio, L.L.C. ("Rawhide"), licensee of Station KLTO-FM, McQueeney, Texas (together, "Joint Parties"), jointly by their respective counsel, hereby submit this Counterproposal in the above-captioned proceeding. In the *Notice of Proposed Rule Making* (DA 05-706, rel. March 18, 2005) ("*NPRM*"), the Commission noted that the allotment proposed by the petitioner, Channel 265C3 at Fredericksburg, Texas, was in conflict with a proposal advanced in *Quanah, Texas, et al.*, 18 FCC Rcd 9495 (2003) (MM Docket No. 00-148), which is not yet final. *NPRM* at note 2. The Commission further noted that the Fredericksburg proposal could be considered, but any grant would be conditioned on the final outcome of MM Docket No. 00-148. *Id.*

2. The Commission was clearly concerned that if the allotments at issue in MM Docket No. 00-148 are ultimately granted, the Fredericksburg allotment, if granted, would have

to be rescinded. The implication, however, was that if MM Docket No. 00-148 does not result in any changes to the FM Table of Allotments, then the Fredericksburg allotment can stand.

3. The Joint Parties are resubmitting their pending proposal as a counterproposal in this proceeding in case the proposal is not granted in MM Docket 00-148. The Commission should not interpret this resubmission as a withdrawal of the pending proposal, now on Application for Review by the Commission, in MM Docket 00-148. Rather, the Joint Parties believe it is prudent, if a procedural defect causes the proposal to be denied in MM Docket 00-148, to preserve the proposal for consideration here. On the other hand, should the Commission grant this counterproposal in this proceeding, the pending Application for Review in MM Docket 00-148 would become moot.

4. The Commission noted that the petition for Fredericksburg, while contingent on the Joint Parties' pending proposal in MM Docket 00-148, is permissible under *Auburn Alabama, et al.*, 18 FCC Rcd 10333 (2003). However, if the petitioner in this case is permitted to file a contingent proposal under *Auburn, Alabama* others such as the Joint Parties should be allowed to do the same. As discussed below, this proposal is mutually exclusive with the proposal for Fredericksburg, and it better serves the public interest by advancing priority (3) of the Commission's allotment priorities, whereas the Fredericksburg proposal advances only priority (4). Therefore, the Commission should prefer this Counterproposal over the Fredericksburg proposal.

5. The Joint Parties propose (1) the substitution of Channel 247C1 for 248C at Waco, the reallocation of Channel 247C1 from Waco to Lakeway, Texas, and the modification of the license for Station KWTX accordingly; (2) the substitution of Channel 243C2 for Channel 244C1 at Georgetown, the reallocation of Channel 243C2 from Georgetown to Lago Vista,



48. As the Notice of Proposed Rule Making states, the Ingram proposal is mutually exclusive with the allotment of Channel 265C3 at Fredericksburg, Texas, proposed in this proceeding. It also reveals short spacings to allotments at Harper, Camp Wood, and Dilley, Texas. However, these short spacings do not preclude consideration of the Ingram allotment. A petition for Channel 256A at Harper, Texas was filed by Charles Crawford on May 7, 2001. The Harper petition, which has not been docketed, may be considered with the present proposals in this proceeding. Channel 256A was deleted at Camp Wood in MM Docket 99-214. *See Camp Wood and Rock Springs, Texas*, 15 FCC Rcd 10349 (2000). That proceeding is now final.

49. On April 17, 2002, the Commission granted a construction permit for Station KLMO-FM, Dilley, Texas. The permit (BPH-20010102AAC) was issued in error because it conflicted with the Joint Parties' prior-filed proposal to substitute Channel 256A at Ingram, Texas. However, the construction permit in fact does protect Channel 256A at Ingram. The permit was issued pursuant to Section 73.215 with respect to Stations KAYG, Camp Wood, Texas; KBUC, Pleasanton, Texas; and KJFK, Lampasas, Texas, and in affording contour protection to those stations it also affords contour protection to the Ingram allotment. Should the Joint Parties' proposal be granted, the Dilley construction permit, with Section 73.215 protection towards Ingram, would not be affected. Therefore, the Dilley permit does not preclude grant of the Joint Parties' proposal. *See Beverly Hills, Chiefland, Holiday, Micanopy and Sarasota, Florida*, 11 FCC Rcd 4641, 4641-42 (1996).

#### **E. Station KQBT, Llano, Texas**

50. In order to make the changes at Georgetown/Lakeway, Channel 297A must be substituted for 242A at Llano, Texas at a new transmitter site. The accompanying Channel Study demonstrates that Channel 297A can be allotted to Llano in compliance with the Commission's spacing rules provided a substitution is made at Nolanville, Texas as described

below. *See* Figures 15-16. The channel study also reveals a short spacing to a proposed allotment at Goldthwaite, Texas and an application for KHLB, Channel 295A, Burnet, Texas. The petition for Goldthwaite was dismissed. *See Goldthwaite, Texas*, 19 FCC Rcd \_\_\_\_ (DA 04-734, rel. March 19, 2004), *app. for review pending*. Even though the Goldthwaite dismissal is not final, this counterproposal may be accepted and processed. *See Auburn, Alabama, et al.*, 18 FCC Rcd 10333, 10340-41 (2003). Alternatively, the Goldthwaite proposal can be considered in the context of this proceeding.

51. The Burnet application, File No. BPH-20030902ADU, does not protect the Joint Parties' proposal, and thus is contingent upon action in this proceeding. The Commission has not yet granted the application, and is holding the application in its pending queue. The application could be combined and considered as a counterproposal in this proceeding.

52. Rawhide Radio, LLC, the licensee of KQBT, is one of the Joint Parties. Rawhide hereby states that it will apply for Channel 297A at Llano and construct the facilities if the application is granted.

53. At the new transmitter site, there will be a net loss in population of 4,832, with a small gain in an area of 88 sq. km. *See* Figure 17.

#### **F. Station KLFX, Nolanville, Texas**

54. In order to change channels at Llano, Channel 249A must be substituted for Channel 297A for Station KLFX at Nolanville, Texas. The channel substitution may be made at the current transmitter site of KLFX, as Figure 18 demonstrates, provided that a change is made at McQueeney, Texas as described below. Clear Channel Broadcasting Licenses, Inc., the licensee of KLFX, is one of the Joint Parties. Clear Channel states that it will apply for the new channel and construct the frequency change as authorized.

**Engineering Statement**  
**In Support of a**  
**Petition for Rule Making**  
**Capstar TX Limited Partnership**  
**CCB Texas Licenses, L.P.**  
**Rawhide Radio, L.L.C.**  
**Clear Channel Broadcasting Licenses, Inc.**

**General**

The instant Petition for Rule Making was prepared for Capstar TX Limited Partnership ("Capstar"), licensee of Station KWTX, Waco, Texas; CCB Texas Licenses, L.P. ("CCB Texas"), licensee of Stations KAJA, San Antonio, Texas and KHFI-FM, Georgetown, Texas; Rawhide Radio, L.L.C. ("Rawhide"), licensee of Station KNGT, McQueeney, Texas; and Clear Channel Broadcasting Licenses, Inc. ("Clear Channel"), licensee of KLFX, Nolanville, Texas. The above named petitioners are referred herein as The Joint Parties. It is prepared and submitted as a Petition for Rule Making. The Joint Parties propose to delete channel 248C at Waco, Texas (KWTX) and allot channel 247C1 at Lakeway, Texas as that community's first local service; substitute channel 245C1 for channel 247C (KAJA) at San Antonio; delete channel 244C1, Georgetown, Texas (KHFI) and allot channel 243C2 at Lago Vista, Texas; substitute channel 297A for channel 242A at Llano, Texas (KBAE); and substitute channel 249A for channel 297A at Nolanville, Texas (KLFX). All of the above realotments and channel substitutions will allow the deletion of channel 249C1 at McQueeney, Texas (KNGT) and its subsequent allotment to Converse, Texas on channel 249C1 as that community's first local service.

**Engineering Statement  
In Support of a  
Petition for Rule Making  
The Joint Parties**

Allocation Study - Ch 297A Llano, TX (KBAE)  
[Depicting spectrum changes required to substitute Ch 297A]  
(Using KBAE licensed Class A site as reference)

REFERENCE				DISPLAY DATES			
30 43 40 N			CLASS = A	DATA	06-18-04		
98 36 43 W			Current Spacings	SEARCH	06-20-04		
----- Channel 297 - 107.3 MHz -----							
Call	Channel	Location	Dist	Azi	FCC	Margin	
-----							
Community of Llano			TX 6.92	300.2			
Reference Coordinates:							
North Latitude: 30-45-33							
West Longitude: 98-40-28							
RADD	ADD	297A Goldthwaite	TX 83.45	353.0	115.0	-31.55	
Of Concern:							
MX PRM that should be considered in the context of							
the instant PRM.							
KLFX	LIC-N	297A Nolanville	TX 104.85	67.1	115.0	-10.15	
KLFX.A	APP-N	297A Nolanville	TX 106.60	67.3	115.0	-8.40	
RDEL	DEL	297A Nolanville	TX 106.60	67.3	115.0	-8.40	
Of Concern:							
Substitution of Ch 249A proposed in instant PRM.							
KHLB.A	APP-Z	295A Burnet	TX 28.19	86.8	31.0	-2.81	
Of Concern:							
Application being held by Commission. Applicant							
filed short spaced to proposed substitution of Ch 297A							
at Llano. This application should be treated as a MX							
with instant PRM.							
KHLB	LIC-Z	295A Burnet	TX 30.53	88.1	31.0	-0.47	
ALLO	VAC	297A Junction	TX 114.91	255.1	115.0	-0.09	
RADD	ADD	296A Brady	TX 83.88	301.9	72.0	11.88	
KXTNFM	LIC	298C0 San Antonio	TX 164.52	168.2	152.0	12.52	
KGSR	LIC-N	296C2 Bastrop	TX 119.83	124.0	106.0	13.83	
KFANFM	LIC	300C3 Johnson City	TX 58.90	182.5	42.0	16.90	
RADD	ADD	299A Richland Springs	TX 62.78	320.3	31.0	31.78	
RADD	ADD	299A Richland Springs	TX 62.78	320.3	31.0	31.78	

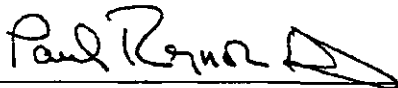
**Statement of the Consultants**

The instant engineering portion of a Petition for Rule Making was prepared for Capstar TX Limited Partnership; CCB Texas Licenses, L.P.; Rawhide Radio, L.L.C.; and Clear Channel Broadcasting Licenses, Inc. ("The Joint Parties") and supports a Petition for Rule Making. It was developed by Reynolds Technical Associates (RTA) and may not be used for purposes other than submission to the Commission by The Joint Parties.

It may not be reproduced in its entirety, or in part, by anyone (other than from the Commission) without the written consent of RTA.

The information in this application is compiled from the most recent Commission and outside data. RTA is not responsible for errors resulting from incorrect data or unpublished rule and procedure changes.

For Reynolds Technical Associates:

  
Paul H. Reynolds

June 21<sup>st</sup>, 2004

12585 Old Highway 280 East, Suite 102  
Chelsea, Alabama 35043  
(205) 618-2020



## EXHIBIT B

**United States of America**  
**FEDERAL COMMUNICATIONS COMMISSION**  
**FM BROADCAST STATION CONSTRUCTION PERMIT**

Authorizing Official:

Official Mailing Address:

MUNBILLA BROADCASTING PROPERTIES, LTD  
5526 HIGHWAY 281 NORTH  
MARBLE FALLS TX 78654

Rodolfo F. Bonacci  
Supervisory Engineer  
Audio Division  
Media Bureau

Facility ID: 34948

Grant Date: June 29, 2004

Call Sign: KHLB

This permit expires 3:00 a.m.  
local time, 36 months after the  
grant date specified above.

Permit File Number: BPH-20030902ADU

This authorization re-issued July 9, 2004 to correct Special Operating  
Condition No. 6.

Subject to the provisions of the Communications Act of 1934, as amended, subsequent acts and treaties, and all regulations heretofore or hereafter made by this Commission, and further subject to the conditions set forth in this permit, the permittee is hereby authorized to construct the radio transmitting apparatus herein described. Installation and adjustment of equipment not specifically set forth herein shall be in accordance with representations contained in the permittee's application for construction permit except for such modifications as are presently permitted, without application, by the Commission's Rules.

Commission rules which became effective on February 16, 1999, have a bearing on this construction permit. See Report & Order, Streamlining of Mass Media Applications, MM Docket No. 98-43, 13 FCC RCD 23056, Para. 77-90 (November 25, 1998); 63 Fed. Reg. 70039 (December 18, 1998). Pursuant to these rules, this construction permit will be subject to automatic forfeiture unless construction is complete and an application for license to cover is filed prior to expiration. See Section 73.3598.

Equipment and program tests shall be conducted only pursuant to Sections 73.1610 and 73.1620 of the Commission's Rules.

Callsign: KHLB

Permit No.: BPH-20030902ADU

Name of Permittee: MUNBILLA BROADCASTING PROPERTIES, LTD

Station Location: TX-BURNET

Frequency (MHz): 106.9

Channel: 295

Class: A

Hours of Operation: Unlimited

Transmitter: Type Accepted. See Sections 73.1660, 73.1665 and 73.1670 of the Commission's Rules.

Transmitter output power: As required to achieve authorized ERP.

Antenna type: Directional

Antenna Coordinates: North Latitude: 30 deg 44 min 29 sec  
West Longitude: 98 deg 19 min 05 sec

	Horizontally Polarized Antenna	Vertically Polarized Antenna
Effective radiated power in the Horizontal Plane (kW):	2.10	2.10
Height of radiation center above ground (Meters):	134	134
Height of radiation center above mean sea level (Meters):	524	524
Height of radiation center above average terrain (Meters):	171	171

Antenna structure registration number: 1235273

Overall height of antenna structure above ground (including obstruction lighting if any) see the registration for this antenna structure.

Special operating conditions or restrictions:

- 1 The permittee/licensee in coordination with other users of the site must reduce power or cease operation as necessary to protect persons having access to the site, tower or antenna from radiofrequency electromagnetic fields in excess of FCC guidelines.
- 2 \*\*\*\*\* This is a Section 73.215 contour protection grant \*\*\*\*\*  
\*\*\*\*\* as requested by this applicant \*\*\*\*\*



Special operating conditions or restrictions:

- 3 BEFORE PROGRAM TESTS ARE AUTHORIZED, permittee shall submit the results of a complete proof-of-performance to establish the horizontal plane radiation patterns for both the horizontally and vertically polarized radiation components. This proof-of-performance may be accomplished using the complete full size antenna, or individual bays therefrom, mounted on a supporting structure of identical dimensions and configuration as the proposed structure, including all braces, ladders, conduits, coaxial lines, and other appurtenances; or using a carefully manufactured scale model of the entire antenna, or individual bays therefrom, mounted on an equally scaled model of the proposed supporting structure, including all appurtenances. Engineering exhibits should include a description of the antenna testing facilities and equipment employed, including appropriate photographs or sketches and a description of the testing procedures, including scale factor, measurements frequency, and equipment calibration.
- 4 BEFORE PROGRAM TESTS ARE AUTHORIZED, permittee shall submit an affidavit from a licensed surveyor to establish that the directional antenna has been oriented at the proper azimuth.
- 5 BEFORE PROGRAM TESTS ARE AUTHORIZED, permittee/licensee shall submit an affidavit that the installation of the directional antenna system was overseen by a qualified engineer. This affidavit shall include a certification by the engineer that the antenna was installed pursuant to the manufacturer's instructions and list the qualifications of the certifying engineer.
- 6 The relative field strength of neither the measured horizontally nor vertically polarized radiation component shall exceed at any azimuth the value indicated on the composite radiation pattern authorized by this construction permit.  
  
A relative field strength of 1.0 on the composite radiation pattern herein authorized corresponds to the following effective radiated power:  
  
2.10 kilowatts.  
  
Principal minima and their associated field strength limits:  
  
120 - 140 degrees True: 0.840 kilowatts
- 7 The grant of this permit is conditioned on the final outcome of MM Docket 00-148. The final outcome of that proceeding may require KHLB to change frequency, class, or site location. Accordingly, any construction undertaken pursuant to this permit is at the permittee's sole risk. See Meridian Communications, 2 FCC Rcd 5904 (Rev. Bd. 1987).

\*\*\* END OF AUTHORIZATION \*\*\*

## CERTIFICATE OF SERVICE

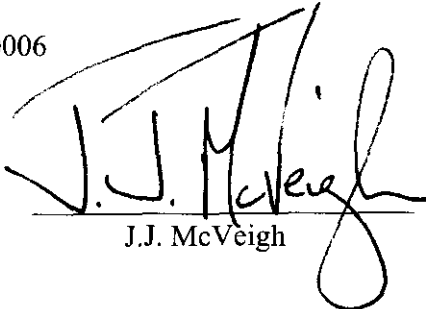
I hereby certify that I have, this Twenty-Fourth day of May, 2005, sent copies of the foregoing **REPLY COMMENTS** by first-class United States mail, postage prepaid, to:

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